

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 65 of 2000

Date of decision 21.6.2007

State of H.P.

...Appellant.

Versus

Mohan Singh and others

...Respondents.

Coram

The Hon'ble Mr. Justice : Surjit Singh, Judge.

Whether approved for reporting?¹

For the appellant : Mr. Ashok chaudhary, Addl. A.G.

For the respondents : Mr. N.K. Thakur, Advocate.

Surjit Singh, Judge (Oral)

Respondents were sent up for trial for offences punishable under Sections 41 and 42 of the Indian Forest Act for allegedly transporting fuel wood in a truck within the area of Himachal Pradesh on 12.4.1992. According to the prosecution, the truck was intercepted near village Bathri in the area of Himachal Pradesh, when the fuel wood was being carried in it. Respondent Mohan Singh was driving the truck while respondent Ramesh Chand had allegedly purchased this wood from respondent Ram Lobhaya. The trial Court has acquitted all the three respondents holding that it is not made out from the evidence on record as to where the truck was intercepted.

¹ Whether reporters of Local papers may be allowed to see the Judgment?

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2. I have heard the learned Additional Advocate General for the appellant – State and the learned counsel for the respondents and gone through the record.

3. It is made out from the prosecution evidence itself viz. the testimony of PW-4 Ravinder Kumar that the truck was intercepted in the area of village Bhangla, which is in Punjab State. The witness was not cross-examined by the prosecution with the leave of the Court and, therefore, there is no reason to disbelieve him. The testimony of this witness fits in the defence version that the wood was purchased from PW-2 Ram Kishan of village Bhangla, situated in the State of Punjab and was being carried to the adjoining village Jhungi, which too falls in Punjab State and that no part of the road, by which it was being carried, falls in the area of Himachal State. PW-2 Ram Kishan also corroborates the defence plea. The witness has stated that he had sold some Palah trees standing on his land in village Bhangla in Punjab State and that those trees were felled by Ramesh Chand, respondent and the wood was carried by him.

4. Apart from the above stated position, it appears from the testimony of the Investigating Officer, i.e. PW-9 HC Subhash Chand, as also PW-5 Sohan Singh, LHC, who accompanied PW-9, that the testimony of PW-4 Ravinder Kumar may not be incorrect. While PW-5 Sohan Singh says that the 'Naka' was laid and the truck was intercepted at a point about three – four kilometers from Bathri and that the shops are also situated at a distance of three – four kilometers from that point, PW-9 Subhash Chand says that the distance of the site of the 'Naka' from village Bathri and the shops situated in that village is one-and-a-half kilometers. This

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contradiction is suggestive of the fact that the two witnesses have not come out with whole truth as regards the place where the truck was intercepted.

5. As a result of the above stated position, I see no reason for interfering with the judgment of acquittal passed by the trial Court. Hence, appeal is dismissed.

June 21, 2007 (BC)

**(Surjit Singh)
Judge**